

1 Ray Bourhis, Esq. SBN 53196
2 Lawrence Mann, Esq. SBN 83698
3 Bennett M. Cohen, Esq. SBN 90865
4 **BOURHIS & MANN**
5 1050 Battery Street
6 San Francisco, CA 94111
7 Tel: (415) 392-4660; Fax: (415) 421-0259
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9 Attorneys for Plaintiff CLAUDIA BLAKE
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11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
13

14 CLAUDIA BLAKE,) Case No.: C 07-4366 EMC (**E-FILING**)
15)
16 Plaintiff,) PLAINTIFF CLAUDIA BLAKE'S
17) NOTICE OF MOTION AND MOTION
18 v.) FOR REMAND BACK TO STATE
19) COURT AND REQUEST FOR COSTS
20) AND FEES (28 U.S.C. §§1332 and
21 UNUMPROVIDENT CORPORATION, UNUM) 1447(c))
22 CORPORATION, NEW ENGLAND MUTUAL)
23 LIFE INSURANCE COMPANY, THE) [Filed concurrently with Plaintiff's Points
24 COMMISSIONER OF THE CALIFORNIA) and Authorities in Support Thereof;
25 DEPARTMENT OF INSURANCE and DOES 1) Declaration of Bennett M. Cohen In
26 through 20, inclusive) Support Thereof]
27)
28 Defendants.) DATE: Wednesday, November 14, 2007
TIME: 10:30 A.M.
DEPT: Courtroom C, 15th Floor
TRIAL DATE: Not Yet Set

22 PLEASE TAKE NOTICE that on Wednesday, November 14, 2007 at 10:30 A.M. or as
23 soon thereafter as counsel may be heard in Courtroom "C," 15th Floor of the above-entitled Court,
24 located at 450 Golden Gate Avenue, San Francisco, California 94102, Plaintiff CLAUDIA BLAKE
25 will and does hereby move the Court for remand of this matter back to State Court and for fees and
26 costs incurred in obtaining them as a result of the removal.
27
28

1 The motion is made on the basis that, in their Notice of Removal, the removing parties fail
2 to establish diversity of citizenship (28 U.S.C. 1332) and further, that the Notice of Removal is
3 procedurally defective (28 U.S.C. 1447(c)). This motion is based upon this notice and motion, the
4 attached memorandum of points and authorities, the attached declaration of Bennett M. Cohen, the
5 pleadings on file in this action and upon such oral argument as shall be allowed at the hearing of
6 this motion.

7 Dated: September 24, 2007

BOURHIS & MANN

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9 By: 

Ray Bourhis, Esq.

Lawrence Mann, Esq.

Bennett M. Cohen, Esq.

Attorneys for Plaintiff CLAUDIA BLAKE

PROOF OF SERVICE

Claudia Blake v. Unumprovident Corporation, et al.

U.S. District Court, Northern District of California, Case No. C07-4366 EMC

I am a resident of the State of California, over the age of eighteen years and not a party to this action. My business address is 1050 Battery Street, San Francisco, California 94111. On September 24, 2007, I will serve the following documents:

NOTICE OF MOTION AND MOTION FOR REMAND BACK TO STATE COURT

in the manner as provided by Rule 5(b) of the Federal Rules of Civil Procedure by placing a true copy of the document(s) listed above, enclosed in a sealed envelope, addressed as set forth below, for collection and mailing on the date and at the business address shown above following our ordinary business practices. I am readily familiar with this business practice for collection and processing of correspondence for mailing with the United States Postal Service. On the same day that a sealed envelope is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service with postage fully prepaid. I am employed in the county where the mailing described below occurred, and am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. I placed a true copy of the specified document(s) in a sealed envelope(s) with postage thereon fully prepaid. The envelope(s) will be deposited with the United States Postal Service on this day in the ordinary course of business in San Francisco, California.

**UNUM GROUP (formerly known as
UNUMPROVIDENT CORPORATION) FIRST
UNUM LIFE INSURANCE COMPANY
(erroneously sued as UNUM CORPORATION)
and NEW ENGLAND MUTUAL LIFE
INSURANCE COMPANY**

John C. Ferry, Esq.

Thomas M. Herlihy, Esq.

KELLY, HERLIHY & KLEIN LLP

44 Montgomery Street, Ste. 2500

San Francisco, CA 94104-4798

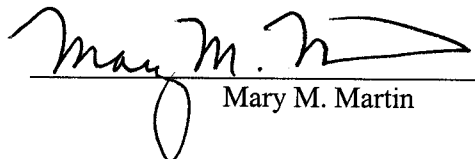
Phone: (415) 951-0535

Fax: (415) 391-7808

Email: jferry@kelher.com

Email: herlihy@kelher.com

(X) (FEDERAL) I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made. Executed at San Francisco, California, on September 24, 2007.


Mary M. Martin